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REMARKS

Claims 1, 3-10, and 14-22 are pending in this application.

Initially, Applicant traverses the finality of the Office Action because it introduces a new ground of rejection that was not necessitated by Applicant's amendment. In particular, MPEP § 706.07(a) expressly states "...Second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is [not] necessitated by applicant's amendment of the claims..." The Office Action introduces a new ground of rejection of claim 20. However, claim 20 already existed as claim 11 at the time of the first Office Action. More particularly, claim 20 is the verbatim recitation of original claim 11 in independent form, as clearly indicated on page 6 of the previous Amendment. Claim 11 was originally rejected over Wilk (U.S. Patent No. 6,643,124). Claim 20 is now rejected over Matsumoto (U.S. Patent Pub. No. 2003/0228847), which is a new ground of rejection. Because no amendments were made to claim 11 when it was rewritten in independent form as claim 20, the new ground of rejection was not necessitated by Applicant's amendment, as required by MPEP § 706.07(a). Accordingly, Applicant requests the withdrawal of the finality of the Office Action.

The Office Action objects to claim 15 because it depends from canceled claim 14. Claim 14 is restored in the current claim listing as it was never intended to be canceled and there was no express indication of cancellation in the previous amendment. Accordingly, Applicant requests the withdrawal of the objection to claim 15.

The Office Action rejects claims 17-19 under 35 U.S.C. § 112, second paragraph. The Office Action alleges "the phrases 'a first section', 'a flip second section', and so on are not consistent with at least claim 1. For instant in claim 1, the Applicant refers to the first section as 'the third section'. It appears that the Applicant gives more than one name to a single feature. This rejection is respectfully traversed.

Applicants assert the rejection under 35 U.S.C. § 112, second paragraph is improper because the Office Action has not provided a proper basis for the rejection. In particular, the Office Action states claim terms must be consistent between two independent claims. However, there is no basis in the MPEP, the statutes, or case law for such an allegation. Furthermore, one of ordinary skill in the art would clearly understand what is being claimed in claims 17-19.

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Additionally, Applicant asserts two different independent claims must include at least one different claim term under the doctrine of claim differentiation. Thus, the Office Action has not provided a proper foundation for the rejection under 35 U.S.C. § 112, second paragraph. Accordingly, Applicants request withdrawal of the rejection under 35 U.S.C. § 112, second paragraph.

The Office Action rejects, under 35 U.S.C. § 102, claims 1-9, 16, 17, 20, and 22 over Matsumoto. The Office Action also rejects, under 35 U.S.C. § 103, claims 10, 15, 18, 19, and 21 over Wilk and Matsumoto. These rejections are respectfully traversed.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference” (MPEP §2131, citing *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)).

Applicant asserts Matsumoto does not disclose or suggest a first part, a second part coupled to the first part by a pivot mechanism, the second part including a camera, and a third part connected to the first part by a hinge that includes a hinge axis, the third part including a keypad, as recited in independent claim 1.

In particular, Matsumoto does not disclose the claimed first part including a display and the third part including a keypad, the third part connected to the claimed first part by a hinge. The Office Action alleges Matsumoto discloses element 11 as a first part, element 10 as a second part, and element 3 as a third part. However, element 3 is not connected to element 11 by a hinge. In particular, element 3 is clearly connected to element 10 by the hinge 9. Thus, Matsumoto does not disclose the claimed third part connected to the first part by a hinge.

Therefore, Matsumoto does not disclose or suggest a first part, a second part coupled to the first part by a pivot mechanism, the second part including a camera, and a third part connected to the first part by a hinge that includes a hinge axis, the third part including a keypad, as recited in independent claim 1.

Applicant also asserts Matsumoto does not disclose first section including a keypad and a flip second section connected to the first section by a hinge, wherein the flip section comprises a first part that is coupled to the hinge, the first part comprising a first display and a pivoting head coupled to the first part by a pivot, wherein the pivot allows the pivoting head to be oriented to

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face different directions, and wherein the pivoting head includes a camera, as recited in independent claim 17.

In particular, Matsumoto does not disclose the claimed first part comprising a first display and a first section including a keypad, the first section coupled to a hinge. The Office Action alleges Matsumoto discloses element 11 as a first part, element 10 as a second part, and element 3 as a third part. However, element 11 is not coupled to the hinge 9. In particular, element 1 is clearly connected to element 10 and not connected to the hinge 9. Thus, Matsumoto does not disclose the claimed first part comprising a first display and a first section including a keypad, the first section coupled to a hinge. Furthermore, Matsumoto does not disclose a pivoting head including a camera. In particular, as illustrated in Fig. 4, only the display section 11 pivots and the display section 11 does not include the camera 21.

Thus, Matsumoto does not disclose first section including a keypad and a flip second section connected to the first section by a hinge, wherein the flip section comprises a first part that is coupled to the hinge, the first part comprising a first display and a pivoting head coupled to the first part by a pivot, wherein the pivot allows the pivoting head to be oriented to face different directions, and wherein the pivoting head includes a camera, as recited in independent claim 17.

Applicant further asserts Matsumoto does not disclose a second part including a first surface and a second surface, a pivot axis tilted with respect to the longitudinal axis by an angle of  $\alpha$ , and the first surface and the second surface tilted in opposite directions with respect to the pivot axis by the angle  $\alpha$ , as recited in independent claim 20.

Matsumoto does not disclose all of the features recited in independent claim 20 and such is not asserted by the Office Action. The Office Action only alleges Matsumoto discloses, at paragraphs 30-32, a second part can be oriented to face different azimuthal angles about the longitudinal axis of the first part. However, the Office Action does not even address the claimed features of a first surface and a second surface, a pivot axis tilted with respect to the longitudinal axis by an angle of  $\alpha$ , and the first surface and the second surface tilted in opposite directions with respect to the pivot axis by the angle  $\alpha$ . Furthermore, Applicant cannot locate the claimed features in the Matsumoto.

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Thus, Matsumoto does not disclose all of the features recited in independent claim 20 and such is not even asserted by the Office Action.

Therefore, Applicant respectfully submits that independent claims 1, 17, and 20 define patentable subject matter. The remaining claims depend from the independent claims and therefore also define patentable subject matter. Accordingly, Applicant respectfully requests the withdrawal of the rejection under 35 U.S.C. § 102 and 35 U.S.C. § 103.

### CONCLUSION

Based on the foregoing amendments and remarks, Applicant respectfully submits this application is in condition for allowance. Favorable consideration and prompt allowance of claims 1, 3-10, and 14-22 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

The Commissioner is hereby authorized to deduct any fees arising as a result of this Amendment or any other communication from or to credit any overpayments to Deposit Account No. 50-2117.

Respectfully submitted,



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Dated: May 7, 2006

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